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100TH CONGRESS
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SENATE

REPORT
100-74

ALABAMA LAND CONVEYANCE

JUNE 18, 1987.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 626]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 626) to provide for the conveyance of certain public lands in Cherokee, De Kalb, and Etowah Counties, Alabama, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 626 is to convey without consideration, the partial undivided interest of the United States in some 16,000 acres of land to 524 landowners in Alabama.

BACKGROUND AND NEED

In 1856, the United States granted land to the State of Alabama for the purpose of aiding in the construction of two proposed railroads. However, the lands given for the two railroads overlapped. The Alabama and Chattanooga Railroad was built; the Coosa and Chattooga Railroad was not.

In 1882, the Alabama Legislature enacted a statute which claimed that title of all of the land granted for the construction of the Alabama and Chattanooga, including those within the overlapping areas was to be vested in the railroad. In 1890, however, the Congress passed the Forfeiture Act (26 Stat. 496) which caused land granted but not used for railroad construction to revert to the United States. Therefore, the land granted for the construction of the Coosa and Chattooga, which was not built, would revert back to the United States. This would include the overlapping lands. A State Supreme Court decision settled the problem by ruling that one-half interest in the disputed land reverted back to the United

S313-16

States. Despite this ruling, the railroad conveyed full interest in the lands to third parties.

The United States and a few of the affected landowners in Alabama knew of this title conflict for some years, but it was not until a Federal Court ruling in March of 1986, *United States* v. *Allied Products Company, et al.*, Civ. No. 82-2274 (N.D. Ala.), that increased attention was focused on the problem. As a result of this case, mortgage and title companies will no longer guarantee title insurance policies, effectively stopping many real estate transactions involving these lands.

The report of the House Committee on Interior and Insular Affairs regarding this measure (House Report 100-13) includes a brief discussion of the mechanics of the proposed land conveyance. The Committee concurs with the intent of this House Report language. The Committee also notes that under the provisions of H.R. 626, the United States would retain all mineral rights.

LEGISLATIVE HISTORY

H.R. 626 was introduced by Congressman Bevill on January 21, 1987. The bill passed the House on March 10, 1987. A hearing on H.R. 626 was held by the Senate Public Lands, National Parks and Forests Subcommittee on May 21, 1987.

At a business meeting on June 10, 1987, the Senate Committee on Energy and Natural Resources ordered H.R. 626 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in open business session on June 10, 1987, by unanimous vote of a quorum present recommends that the Senate pass H.R. 626 as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers*	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Melcher	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad*	
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici*	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles*	
Mr. Hecht	
Mr. Evans	

*Indicates voted by proxy.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 12, 1987.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 626, an act to provide for the conveyance of certain public lands in Cherokee, Dekalb, and Etowah Counties, Alabama, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, June 10, 1987.

H.R. 626 would authorize the Secretary of the Interior to convey interest in approximately 16,000 acres of land in Alabama to a trustee who would then convey the interests to the current land owners. All mineral rghts would be reserved to the federal government. The act specifies that no costs incurred in implementing its provisions shall be paid by the federal government.

Based on information obtained from the Bureau of Land Management, CBO estimates that enactment of this legislation will not affect the federal budget or the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

JAMES BLUM,
(For Edward M. Gramlich, Acting Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 626. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 626, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to H.R. 626 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 1, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to provide you with our views on H.R. 626, a bill "to provide for the conveyance of certain public lands in Cherokee, DeKalb, and Etowah Counties, Alabama, and for other purposes," as passed by the House.

We do not object to enactment of H.R. 626.

H.R. 626 would direct the Secretary of the Interior to convey, without consideration, all interest of the United States in public lands originally conveyed by the United States to the State of Alabama pursuant to the Act of June 3, 1856, in aid of the Coosa and Chattooga Railroad and subsequently forfeited to the United States pursuant to the Act of September 29, 1890. The lands would be conveyed to a trustee qualified under the laws of Alabama and approved by the Secretary of the Interior. The trustee would be directed to convey the interest of the United States in the lands to persons he determines to be current owners of record of the balance of the interest in the lands. No costs incurred by the trustee would be borne by the United States. All minerals would be reserved to the United States.

When Congress enacted the Act of June 3, 1856, it granted alternate odd-numbered sections of land, up to six sections on each side of the rail line, to the State of Alabama for the purpose of aiding the construction of railroads. From the period 1881 to 1884, the Secretary of the Interior certified approximately 16,000 acres of land to the State of Alabama as being within the congressional grant to be held in trust for the Coosa and Chattooga Railroad until such time as that railroad was actually constructed. In certain instances some of these lands conflicted with or overlapped grants for certain other railroads, primarily the Alabama and Chattanooga Railroad. The Coosa and Chattooga Railroad was never constructed. Under the terms of the Act of September 29, 1890, title to the lands which had been held in trust for the Coosa and Chattooga revested in the United States. The Alabama and Chattanooga Railroad was, however, constructed. Therefore, title to lands held in trust for that line vested. In instances where lands held in trust for the two railroads overlapped, a one-half undivided interest vested in the Alabama and Chattanooga Railroad reverted to the United States.

In 1882 the Alabama legislature enacted a statute which claimed that title to all of the lands, including those within the conflicting areas, was vested in whatever railroad was actually constructed. However, the Alabama Supreme Court, in 1898, ruled that title to the overlapping lands did not pass in its entirety to the completed line, but that one-half undivided interest reverted to the United States under the Act of September 29, 1890. In spite of this ruling, the interest in the lands which reverted was conveyed by the railroads to third-parties. The invalid claims of title which exist today began with this attempt by the State of Alabama to convey the

entire interest in the grant lands to the completed railroad and the railroads' subsequent attempt to convey full title to third parties.

At the present time the United States retains a 50 percent interest in 14,872 acres and a 33⅓ percent interest in 798 acres of these lands.

Although the United States and some of the affected residents in Alabama have known about this title problem for many years, it was not until a Federal court ruling in March of last year that wide-spread attention was focused on the situation. As a result of that ruling, in which the United States' partial interest was affirmed, title companies will no longer guarantee title insurance policies of the affected residents.

There are several methods available to the Department through the Bureau of Land Management (BLM) and the claimants to resolve this title problem.

Claimants could file claims under the Color-of-Title Act with BLM. However, to attempt to resolve this situation through color-of-title claims for such a large number of claimants would prove to be an extremely costly and time consuming process to the claimants as well as to the Federal Government. It is expected that some claimants would be unsuccessful due to the good faith requirements of the Color-of-Title Act since some have had knowledge of the title problem for several years. On the average, the United States receives about 10 percent of the fair market value in color-of-title cases. Processing approximately 524 cases would be extremely expensive and take years to complete.

Complicated trust agreements would be required due to multiple ownership. The cost to the government of processing such claims would be significantly higher than the price received from the sale of lands.

Another method of resolution would be under the Act of March 3, 1887. The Act allows for the holder to purchase the government's interest at fair market value. This procedure would also be time consuming and costly. Separate appraisals would be required for each property and we would anticipate strong opposition from claimants having to pay for what they believe has been their property. Over the last 60 years, less than a dozen residents have purchased the government's interest in the land. The vast majority of affected persons have been unaware of the title problem and would therefore probably choose to pursue their claims under the Color-of-Title Act since they have believed they have had good title to the lands all the time. In many cases the lands have been in the same families for several generations. We estimate that about 524 claims would be covered by the Act of March 3, 1887.

Section 203 of the Federal Land Policy and Management Act (FLPMA) also provides for the sale of public lands. Again, this procedure would prove very costly and time consuming because of the conditions and requirements contained in section 203 and the possible applicability of the Color-of-Title Act to most of the cases.

We believe that H.R. 626 is the simplest and most cost effective disposal alternative. H.R. 626 would result in minimal administrative costs to the Federal Government and would quickly result in final resolution of the title problem. The trustee provision of the

bill would relieve the Federal Government of the administrative problems usually associated with public land disposals.

With regard to the trustee provision in H.R. 626, we note that the bill was amended in the House to explicitly state that no costs associated with the trusteeship will be borne by the United States. The Department had requested in testimony before the House Committee on Interior and Insular Affairs that the legislation be amended to make beneficiaries of H.R. 626, not the Federal Government, responsible for the trustee's costs. We support the House amendment which clarifies the matter.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

MICHAEL A. POLING,
Acting Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act, H.R. 626, as reported.

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